1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 SANDRO S. PEREZ, Case No.: 1:20-cv-00840-SAB (PC) ORDER DIRECTING CLERK OF COURT TO 12 Plaintiff, RANDOMLY ASSIGN A DISTRICT JUDGE TO THIS ORDER 13 v. FINDINGS AND RECOMMENDATIONS A, SMITH, et al., 14 RECOMMENDING DISMISSAL OF CERTAIN 15 **CLAIMS** Defendants. [ECF Nos. 10, 11] 16 17 18 Plaintiff Sandro S. Perez is proceeding pro se and in forma pauperis in this civil rights action 19 pursuant to 42 U.S.C. § 1983. 20 On July 22, 2020, the undersigned screened Plaintiff's complaint and found that Plaintiff stated 21 a cognizable claim for deliberate indifference against Defendants A. Smith, D. Schuller, G. 22 Nwachukwu, J. Burell, V. Giannadrea, J. Trujillo-Villa, J. Szalai, J. Alvarez, and unidentified ASP 23 designated custody supervisor. (ECF No. 10.) However, Plaintiff was advised that he failed to state 24 any other cognizable claims. (Id.) Therefore, Plaintiff was advised that he could file an amended 25 complaint or a notice of intent to proceed on the claim found to be cognizable. (<u>Id.</u>) 26 On July 31, 2020, Plaintiff notified the Court of his intent to proceed on the deliberate 27 indifference claim against Defendants A. Smith, D. Schuller, G. Nwachukwu, J. Burell, V. 28 Giannadrea, J. Trujillo-Villa, J. Szalai, J. Alvarez, and unidentified ASP designated custody 1

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supervisor. (ECF No. 11.) Accordingly, the Court will recommend that this action proceed against Defendants A. Smith, D. Schuller, G. Nwachukwu, J. Burell, V. Giannadrea, J. Trujillo-Villa, J. Szalai, J. Alvarez, and unidentified ASP designated custody supervisor for deliberate indifference in violation of the Eighth Amendment. Fed. R. Civ. P. 8(a); Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007); Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010). Accordingly, the Clerk of the Court is HEREBY DIRECTED to randomly assign a District Judge to this action. Further, based on the foregoing, it is HEREBY RECOMMENDED that: 1. This action proceed against Defendants A. Smith, D. Schuller, G. Nwachukwu, J.

- This action proceed against Defendants A. Smith, D. Schuller, G. Nwachukwu, J. Burell, V. Giannadrea, J. Trujillo-Villa, J. Szalai, J. Alvarez, and unidentified ASP designated custody supervisor for deliberate indifference in violation of the Eighth Amendment; and
- 2. All other claims for relief are dismissed for failure to state a cognizable claim.

These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within **fourteen (14) days** after being served with these Findings and Recommendations, Plaintiff may file written objections with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: **August 5, 2020**

UNITED STATES MAGISTRATE JUDGE

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